

**AMENDMENT NUMBER 3
TO
CONTRACT NO. DIR-SDD-1673
BETWEEN
THE STATE OF TEXAS, DEPARTMENT OF INFORMATION RESOURCES
AND
KONICA MINOLTA BUSINESS SOLUTIONS U.S.A., INC.**

This Amendment Number 3 to Contract Number DIR-SDD-1673 ("Contract") is between the Department of Information Resources ("DIR") and Konica Minolta Business Solutions U.S.A., Inc. ("Vendor"). DIR and Vendor agree to modify the terms and conditions of the Contract as follows:

1. **Contract, Section 2, Term of Contract**, is hereby amended as follows:

DIR and Vendor hereby agree to extend the term of the Contract for one (1) year through April 26, 2014 or until terminated pursuant to the termination clauses contained in the Contract. Prior to expiration of the term, DIR and Vendor may extend the Contract, upon mutual agreement, for up to one (1) additional one-year term.

2. **Contract, Section 4. Pricing, G. Travel Expense Reimbursement** is hereby restated in its entirety as follows:

G. Travel Expense Reimbursement

Pricing for services provided under this Contract are exclusive of any travel expenses that may be incurred in the performance of those services. Travel expense reimbursement may include personal vehicle mileage or commercial coach transportation, hotel accommodations, parking and meals; provided, however, the amount of reimbursement by Customers shall not exceed the amounts authorized for state employees as adopted by each Customer; and provided, further, that all reimbursement rates shall not exceed the maximum rates established for state employees under the current State Travel Management Program (<http://www.window.state.tx.us/procurement/prog/stmp/>). Travel time may not be included as part of the amounts payable by Customer for any services rendered under this Contract. The DIR administrative fee specified in Section 5 below is not applicable to travel expense reimbursement. Anticipated travel expenses must be pre-approved in writing by Customer.

3. **Contract, Section 5. DIR Administrative Fee, B)** is hereby restated in its entirety as follows:

B) All prices quoted to Customers shall include the administrative fee. DIR reserves the right to change this fee upwards or downwards during the term of this Contract, upon written notice to Vendor without further requirement for a formal contract amendment. Any change in the administrative fee shall be incorporated in the price to the Customer.

4. **Contract, Section 6. Notification**, is hereby restated in its entirety as follows:

6. Notification

All notices under this Contract shall be sent to a party at the respective address indicated below.

If sent to the State:

Robin Abbott, Manager
Contract & Vendor Management
Department of Information Resources
300 W. 15th St., Suite 1300
Austin, Texas 78701
Phone: (512) 936-2233
Facsimile: (512) 475-4759
Email: robin.abbott@dir.texas.gov

If sent to the vendor:

Mr. Kristen McKenna
Senior Gov't Marketing Specialist, State Contracts
KMBS U.S.A., Inc.
1595 Spring Hill Road
Suite 410
Vienna, VA 22182
Phone: (813) 207-8276
Mobile: (703) 271-1188
Email: kmckenna@kmbs.konicaminolta.us

5. **Appendix A. Standard Terms and Conditions For Product and Related Services Contracts**, is hereby restated in its entirety and replaced with the attached **Appendix A. Standard Terms and Conditions For Product and Related Services Contracts** dated 12/17/2012.

6. **Authorized Exceptions to Appendix A, Standard Terms and Conditions For Product and Related Service Contracts, Appendix A, Section 6, Contract Fulfillment and Promotion, E. Internet Access to Contract and Pricing Information, 1. Vendor Website** is hereby added as follows:

- A. **Section 6, Contract Fulfillment and Promotion, E. Internet Access to Contract and Pricing Information, 1. Vendor Website**, is hereby replaced in its entirety:

Within thirty days of the effective date of the Contract, Vendor will establish and maintain a website specific to the product and service offerings under the Contract which is clearly distinguishable from other, non-DIR Contract offerings at Vendor's website. The website must include: the product and services offered, product and service specifications, Contract pricing including MSRP, percent discount and price for each model number as applicable, designated Order Fulfillers, contact information for Vendor

and designated Order Fulfillers, instructions for obtaining quotes and placing Purchase Orders, and warranty and return policies. The Vendor's website shall list the DIR Contract number, reference the DIR Information and Communications Technology (ICT) Cooperative Contracts program, display the DIR logo in accordance with the requirements in paragraph F of this Section, and contain a link to the DIR website for the Contract.

7. **Authorized Exceptions to Appendix A, Standard Terms and Conditions For Product and Related Service Contracts, Appendix A, Section 8, Contract Administration, B. Reporting and Administrative Fees, 2) Detailed Monthly Reporting dated 12/17/12** is hereby restated in its entirety as follows:

2) Detailed Monthly Report

Vendor shall electronically provide DIR with a detailed monthly report in the format required by DIR showing the dollar volume of any and all sales under the Contract for the previous month period. Reports shall be submitted to the DIR ICT Cooperative Contracts E-Mail Box at ict.sales@dir.texas.gov. Reports are due on the fifteenth (15th) calendar day after the close of the previous month period. The monthly report shall include, per transaction: the detailed sales for the period, Customer name, invoice date, invoice number, description, quantity, manufacturer's suggested retail price, unit price, extended price, Customer Purchase Order number, contact name, Customer's complete billing address, and other information as required by DIR. The MSRP report shall be due by the 20th of each month through April 20, 2014. Each report must contain all information listed above per transaction or the report will be rejected and returned to the Vendor for correction in accordance with this section.

If Vendor submits three (3) monthly sales reports or administrative fee payments late within a 12-month period beginning upon execution of this Amendment, DIR reserves the right to suspend or terminate this Contract for cause per Section 10.B.4.a. of Appendix A, Termination for Cause. If Vendor is late with its monthly sales report, Vendor will pay DIR one hundred dollars (\$100) per day ("Late Payment"), for each day the monthly report is late, up to ten (10) days per month for a maximum monthly Late Payment amount of \$1000 for late monthly sales reports. If Vendor is late with its monthly administrative fee payment, Vendor will pay DIR one hundred dollars (\$100) per day ("Late Payment"), for each day the monthly administrative fee payment is late, up to ten (10) days per month for a maximum monthly Late Payment amount of \$1000 for late monthly administrative fee payments. DIR does not waive any other contractual remedy pursuant to this Contract.

8. **Authorized Exceptions to Appendix A, Standard Terms and Conditions For Product and Related Service Contracts, Appendix A, Section 9, Vendor Responsibilities, A. Indemnification, 1) Acts and Omissions** is hereby added as follows:

- B. **Section 9, Vendor Responsibilities, A. Indemnification, 1) Acts and Omissions**, is hereby replaced in its entirety:

Vendor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM AND AGAINST ANY

AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES arising out of, or resulting from any acts or omissions of the Vendor or its agents, employees, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. VENDOR SHALL PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS FEES. THE DEFENSE SHALL BE COORDINATED BY THE OFFICE OF THE ATTORNEY GENERAL FOR TEXAS STATE AGENCIES AND BY CUSTOMER'S LEGAL COUNSEL FOR NON-STATE AGENCY CUSTOMERS.

9. **Authorized Exceptions to Appendix A, Standard Terms and Conditions For Product and Related Service Contracts, Appendix A, Section 10, Contract Enforcement, B. Termination, 3) Termination for Convenience** is hereby added as follows:

- C. **Section 10, Contract Enforcement, B. Termination, 3) Termination for Convenience**, is hereby replaced in its entirety:

DIR or Vendor may terminate the Contract, in whole or in part, by giving the other party thirty (30) calendar days written notice. A Customer may terminate a Purchase Order if it is determined by the Customer that Order Fulfiller will not be able to deliver product or services in a timely manner to meet the business needs of the Customer. Konica Minolta will agree to allow the CUSTOMER to cancel the master agreement without fees, preventing any additional placements subsequent to the date of termination. Additionally, termination for convenience will apply to any pending or open orders, which have yet to be installed at CUSTOMER locations. However, equipment installed prior to the date of the termination of the agreement will be obligated to remain in place for the full term of its respective lease period unless cancelled for reasons of non-appropriation of funding (government agencies), Konica Minolta default or non-performance of equipment. Cancellation of any installed equipment for any other reason will result in early cancellation fees. Fees may be equivalent up to the amount of the net remaining stream of payments.

10. **Appendix C, Pricing Index** is hereby replaced in its entirety with **Appendix C, Pricing Index** as amended by this Amendment Number 3.

All other terms and conditions of the Contract not specifically modified herein shall remain in full force and effect. In the event of a conflict among provisions, the order of precedence shall be this Amendment Number 3, Amendment Number 2, Amendment Number 1 and then Contract DIR-SDD-1673.

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IN WITNESS WHEREOF, the parties hereby execute this Amendment Number 3 to be effective as of the date of last signature, but in all events, no later than April 26, 2013.

KONICA MINOLTA BUSINESS SOLUTIONS U.S.A., INC.

By: Signature on File

Name: Kimberly B Talbot

Title: Manager, Government Contracts

Date: 5/2/13

The State of Texas, acting by and through the Department of Information Resources

By: Signature on File

Name: Carl Marsh

Title: Chief Operating Officer

Date: 5/15/13

**Office of
General Counsel:** DRBrown 5-14-13